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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

In re ANDREW B., a Person Coming
Under the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

ANDREW B.,

Defendant and Appellant.

C040961

(Super. Ct. No. JV110622)

Following a contested jurisdictional hearing, the juvenile court found that Andrew B. (the minor) burglarized the residence of Mary B. (Mary) and that he conspired with Kevin L. to commit that burglary. The minor was declared a ward of the court and placed on home probation.

On appeal, the minor contends: (1) the conspiracy finding must be reversed because the court violated the corpus delicti rule; (2) remand is required for preparation of the joint assessment required pursuant to Welfare and Institutions Code

section 241.1; and (3) his counsel's failure to request the joint assessment constituted ineffective assistance of counsel. We shall affirm the order of wardship.

FACTS

At approximately 3:30 a.m. on March 19, 2002, Mary was awakened by her dogs, who were barking. Her home security alarm then went off. The alarm had been installed about two weeks before and had a sensor located about five feet above the floor, which prevented her dogs from setting it off when they went in and out of a doggy door. Mary walked to the back of her house and looked out the window into her backyard which was illuminated by a motion sensor. She saw two youngsters near the doggy door. She called 911 and then looked again as they "dashed" over the back fence.

Deputy Sheriff Scott Haymart, responding to Mary's call, was on his way to her home when he saw the minor and Kevin L. walking down the street. They were about one-half mile from Mary's residence. Haymart stopped and asked the two why they were out at that time. They told him they were going to get a soda or a drink. Following Haymart's advising the minor of his *Miranda*¹ rights, the minor told him that Kevin had heard that Mary had a large sum of money in her home, that "they were going to steal [sic] the money from her," and that Kevin knew of a doggy

¹ *Miranda v. Arizona* (1966) 384 U.S. 436 [16 L.Ed.2d 694].

door in the back of the residence by which they could gain entry.

Mary was taken to where Kevin and the minor were being detained. She identified Kevin as one of the two youngsters she saw in her backyard.

The minor's mother testified that the minor told her that he was with Kevin the night of the break-in, that Kevin went through the doggy door, and that the alarm went off and they fled.

DISCUSSION

I

The Corpus Delicti Rule and Conspiracy

The minor contends that the conspiracy finding must be reversed because the People were unable to establish the corpus delicti of the conspiracy charge independent of his extrajudicial statements.² We disagree.

"In any criminal prosecution, the corpus delicti must be established by the prosecution independently from the extrajudicial statements, confessions or admissions of the defendant. [Citations.] The elements of the corpus delicti are (1) the injury, loss or harm, and (2) the criminal agency that has caused the injury, loss or harm. [Citation.] 'The independent proof may be by circumstantial evidence [citation], and it need not be beyond a reasonable doubt. A slight or prima

² The minor made a corpus delicti objection during the hearing.

facie showing, permitting the reasonable inference that a crime was committed, is sufficient. [Citations.]' [Citation.]" (*People v. Wright* (1990) 52 Cal.3d 367, 403-404.) "The People's burden is met by evidence which creates a reasonable inference that the harm could have been caused by a criminal agency, even in the presence of an equally plausible noncriminal explanation of the incident." (*People v. Culton* (1992) 11 Cal.App.4th 363, 367.) Once the corpus delicti of the offense is established, any admissions by the defendant tending to connect him with the offense are admissible. (*People v. Hardeman* (1966) 244 Cal.App.2d 1, 42.)

Mary testified that she was awakened about 3:30 a.m. when her dogs started barking and then her house alarm sounded. The alarm was located about five feet above the doggy door so that her dogs would not activate it upon the dogs' going in and out of the doggy door. She saw two juveniles in her backyard near the doggy door, and they ran and jumped over her fence. From this evidence, a reasonable inference can be drawn that at least one of the juveniles had entered Mary's home through the doggy door, stood up, and triggered the alarm. Consequently, a prima facie case that a burglary had occurred was established. A prima facie case of burglary having been established, the minor's admissions to Deputy Haymart and to his mother were admissible to establish his complicity in the burglary.

As to the conspiracy count, conspiracy consists of an agreement by two or more persons to commit a criminal offense (Pen. Code, § 182, subd. (a)(1)) coupled with an overt act by

one of the conspirators in furtherance thereof (Pen. Code, §§ 182, subd. (a)(1), 184; *People v. Hardeman*, *supra*, 244 Cal.App.2d at p. 42). The minor's complicity in the burglary of Mary's residence having been established, the prima facie case for the conspiracy count was easily established by his presence with Kevin at the scene of the burglary, his fleeing with Kevin when the alarm was triggered, and his being found by Deputy Haymart within one-half mile of Mary's home shortly after the break-in. Thus, there was no violation of the corpus delicti rule in admitting the minor's statements regarding his agreement with Kevin to burglarize Mary's home.

The minor attempts to avoid the foregoing conclusions by pointing out that "[s]everal disparate inferences can be drawn from the events testified to by [Mary], including: (1) that the newly installed alarm may simply have malfunctioned; (2) that a dog or other animal may have activated the sensor, thus triggering the alarm; . . . or, (3) someone [else] may have entered the house through the 24" by 24" doggy door and triggered the alarm through the sensor."

Even if these inferences could be considered reasonable, which requires quite a stretch given the boys' presence near the doggy door and their fleeing in the face of the alarm, this is of no aid to the minor. It matters not that other reasonable inferences may be drawn, all that is required for the prosecution to meet its burden of establishing the corpus delicti of a crime is that one reasonable inference to be drawn

is that a crime was committed. (*People v. Culton, supra*, 11 Cal.App.4th at p. 367.)

Consequently, the minor's confession to the conspiracy count was properly admitted.

II

Issues Related to the Joint Assessment Report

The minor contends the juvenile court erred by making a disposition without obtaining the joint assessment report required by Welfare and Institutions Code section 241.1.³ Alternatively, he argues that if his failure to request the report constitutes a waiver, he received ineffective assistance of counsel. We reject both contentions.

Section 241.1 states in relevant part: "(a) Whenever a minor appears to come within the description of both Section 300 and Section 601 or 602, the county probation department and the child protective services department shall, pursuant to a jointly developed written protocol described in subdivision (b), initially determine which status will serve the best interests of the minor and the protection of society. The recommendations of both departments shall be presented to the juvenile court with the petition that is filed on behalf of the minor, and the court shall determine which status is appropriate for the minor. Any other juvenile court having jurisdiction over the minor shall receive notice from the court, within five calendar days,

³ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

of the presentation of the recommendations of the departments. The notice shall include the name of the judge to whom, or the courtroom to which, the recommendations were presented."

The minor claims he appears to come within section 300 because the probation officer's report shows that he is 13 years old; he lives with his mother and stepfather and four siblings, one of whom is his 15-year-old stepbrother, Kevin L.; his mother has been married to his stepfather for about six years; the stepfather is a registered sex offender with at least seven arrests and/or convictions of various offenses from 1986 to 1994; since 1998 there have been seven referrals to Child Protective Services involving the family; and in all but one of these referrals, the minor had been reported as a victim of physical abuse or general neglect.

Only one of the referrals was substantiated, and it involved Kevin's having physically abused the minor. After 1994 there was no indication that the stepfather had been involved in any criminal activity; indeed, he was currently attending American River College on a part-time basis. A records check on the minor's mother and all other siblings revealed no criminal history.

The minor's mother described the home environment as "stable with no problems." She reported the minor's "overall behavior" in the home was good, he was "very helpful" around the house, his hobbies were playing on the computer and riding his bike, and she had "control over [him]." As to his schooling, the minor was currently in the seventh grade, passing all of his

classes and had no attendance or conduct problems. The probation officer's report concluded, "The minor's adjustment at home and school can be deemed fair."

On this record, there simply is no basis for believing that the minor appears to be a subject for dependency proceedings under section 300, a condition necessary to triggering a section 241.1 report. And because there was no basis for a section 241.1 report, counsel can hardly be faulted for not requesting one.

DISPOSITION

The judgment (order) is affirmed.

_____, ROBIE, J.

We concur:

_____, SCOTLAND, P.J.

_____, SIMS, J.